



ADR/ODR Regs and 261 Claims – Airline Compliance

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The Civil Aviation Authority (CAA) is policing compliance by airlines with new laws designed to encourage the use of alternative dispute resolution (ADR) and online dispute resolution (ODR). The CAA has threatened to carry out spot checks and to “name and shame” airlines that do not participate in ADR. Click [here](#) to read the statement (See: para 70 of CAP1286).

The CAA takes the view that the most obvious area in which these new requirements will apply is to passenger complaints in respect of claims under Regulation 261/2004 (delayed flights, denied boarding, etc.) in respect of UK flights. Click [here](#) to read the statement.

There are aspects of the new laws that are compulsory and some that are voluntary (see below). For example, airlines do **not** have to sign up to the ADR schemes that have been established to resolve disputes with airlines:

Our goal is to get full participation in ADR schemes from **all** airlines.

However, when implementing the EU’s Directive on ADR, the UK Government has said that, as far as aviation is concerned, schemes should be voluntary for airlines. Click [here](#) for more information (See: Useful Information - Do Airlines have to join ADR schemes).

The CAA has warned that it has powers under the Enterprise Act 2002 and the Consumer Rights Act 2015 to take enforcement action.

The New Requirements

The new requirements stem from EU Directive 2013/11 and EU Regulation 524/13, which were implemented into English law by Regulations 19 and 19A of the Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015, as amended (ADR/ODR Regs). The new requirements came into force in England on 1 October 2015 (ADR) and 9 January 2016 (ODR).

The CAA is checking whether airlines have:

1. contracted with an ADR provider to handle their customer complaints;
2. prepared a “deadlock” letter;
3. updated their website and conditions of sale to comply with the ADR/ODR Regs; and
4. amended the notices that they are required to issue to passengers when a flight has been delayed, cancelled, etc.

ADR Providers

The CAA has approved the Centre for Effective Dispute Resolution (CEDR) and Consumer Dispute Resolution Ltd (The Retail Ombudsman) (CDR) as appropriate bodies for resolving complaints by passengers in respect of UK flights.

CEDR

The airline has to pay a subscription fee of £250 per month (fee scale for the first year) with a fee of £175 per case, whilst the passenger pays an administration fee of £25. Thomson Airways is a member of CEDR’s scheme. Click [here](#) for more information.



CDR

Either: £2,000 annual subscription fee and £45 per claim; or no subscription fee and £75 per claim.

The passenger is not charged. No charge is made to the airline in respect of spurious claims. If more than one passenger makes a 261 claim in respect of the same flight, CDR will only charge one fee (i.e., £45 or £75 depending upon whether the airline is a subscriber). Ryanair, EgyptAir and Turkish Airlines are all members of **CDR's scheme**.

Industry Practice

Some airlines (e.g. BA and Virgin) are not nominating an ADR provider, but CDR is, apparently, proving to be a popular choice.

How we can help

We can:

1. undertake a compliance check to see if you have complied with the ADR/ODR Regs;
2. deal with passenger claims under Reg 261 on behalf of the airline at a fixed cost, which would include:
 - a. assessing the prospects of successfully defending the claim; and
 - b. providing our address for service of court proceedings (to ensure that claims are dealt with).

For more information on the matters discussed in this Locke Lord QuickStudy, please contact the authors.

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